

APPEAL NO. 032735  
FILED DECEMBER 4, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 10, 2003. The hearing officer determined that respondent 2 (claimant) is entitled to supplemental income benefits (SIBs) for the first compensable quarter, but not for the second or third compensable quarters; that the claimant's impairment rating (IR) is 22%; that the appellant (carrier) did not waive the right to dispute the claimant's IR; and that the carrier waived the right to dispute the claimant's entitlement to first quarter SIBs. Subsequently, respondent 1 (attorney) requested attorney fees for his representation of the claimant in the dispute in the amount of \$2,850.00. On July 28, 2003, a Texas Workers' Compensation Commission (Commission) Order For Attorney's Fees (order) was issued by a hearing officer approving the entire amount requested. The carrier appeals the order, arguing that because the claimant was determined to be entitled to only one of the three SIBs quarters in question, the attorney should have only been awarded one third of the requested fees. The appeal file contains no response from either the claimant or the attorney.

DECISION

A timely appeal not having been filed, the order has become final pursuant to Section 410.169.

Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §§ 152.3(e) and 143.3 (Rules 152.3(e) and 143.3)), for an appeal from an order issued by a hearing officer after a benefit contested case hearing to be considered timely, it must be filed with the Commission's central office within 15 days of the date of receipt of the order. Section 410.202(d) was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file appeals. Commission records indicate that the hearing officer's decision and order was placed in the carrier's box located at the Commission's central office on July 28, 2003, and was deemed received by the carrier no later than July 29, 2003. See Rule 102.5(d). Under Section 410.202(a), 15 days from deemed date of receipt of the decision would have been August 19, 2003. Although the carrier improperly requested a benefit contested case hearing to dispute the order, and that request was received by the field office on September 18, 2003, the proper request for review by the Appeals Panel was dated October 14, and received by the Commission's central office on October 15, 2003. Because there is no evidence that an appeal conforming to the requirements of Rule 152.3(e) was filed prior to August 19, 2003, a timely appeal was not filed and the order has become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the insurance carrier is **THE GRAY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT L. WALLACE  
1717 EAST LOOP, SUITE 333  
HOUSTON, TEXAS 77029.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge